



**MILPITAS CITY COUNCIL MEETING AGENDA
SEPTEMBER 5, 2006**

**7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. ROLL CALL**
- II. PLEDGE OF ALLEGIANCE**
- III. INVOCATION (Councilmember Giordano)**
- IV. APPROVAL OF MINUTES (August 15, 2006)**
- V. SCHEDULE OF MEETINGS**
- VI. PRESENTATION**
 - Proclamation:** Patriot Day, September 11, 2006
- VII. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- VIII. ANNOUNCEMENTS**
- IX. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- X. APPROVAL OF AGENDA**
- XI. CONSENT CALENDAR (Items with Asterisks)**
- XII. PUBLIC HEARING (NONE)**
- XIII. UNFINISHED BUSINESS (NONE)**
- XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**
 - RA1. Call to Order by the Mayor/Chair**
 - RA2. Roll Call**
 - RA3. Approval of Minutes (August 15, 2006)**
 - RA4. Approval of Agenda and Consent Calendar**

- RA5. Receive Progress Report on Library and East Parking Garage, Projects No. 8161, 8162 8153 and 8165 (Staff Contact: Mark Rogge, 586-3403)**
- RA6. City of Milpitas Unaudited Financial Status Report for the Fiscal Year Ended June 30, 2006 (Staff Contact: Emma Karlen, 586-3145)**
- *RA7. Approve Fiscal Year 2005-06 Year-End Budget Adjustments (Staff Contact: Emma Karlen, 586-3145)**
- *RA8. Accept the 2006-2007 Final Budget and the 2006-2011 Final Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**
- *RA9. Approve PG&E Distribution Service and Extension Agreement for the new Milpitas Library and Midtown East Parking Garage: Project No. 8153 (Staff Contact: Steve Erickson, 586-3414)**
- *RA10. Award Construction Contract: Main Sewage Pump Station, Access Improvements, Phase II, Project No. 6079 (Staff Contact: Greg Armendariz, 586-3317)**
- *RA11. Approve Contract Change Order: North Main Street Utilities Project—Weller Lane To Carlo Street, Underground Utility District No. 5, Project No. 8153 (Staff Contact: Steve Erickson, 586-3414)**
- *RA12. Approve Authorization to Enter into Negotiations with The Matteson Companies for Affordable Housing Units (Staff Contact: Felix Reliford, 586-3071)**
- *RA13. Adopt Resolution Approving the Execution of an Owner Participation Agreement with Western Pacific Housing, LLC (Staff Contact: Felix Reliford, 586-3071)**
- RA14. Agency Adjournment**

XV. REPORTS OF OFFICER AND COMMITTEE

City Council

- * 1. Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Public Art Committee

- * 2. Approve The Public Art Committee Manual (Staff Contact: Kathleen Yurchak, 586-3209)**

XVI. NEW BUSINESS

- 3. Receive a Report From Valley Transportation Authority (VTA) On Value Engineering Proposals Being Pursued For Bay Area Rapid Transit (BART) to Silicon Valley Project in a New Supplemental Environmental Impact Report and Authorize City Manager to Issue a Comment Letter (Staff Contact: Jaime Rodriguez, 586-3335)**
- 4. Deny Request for Waiver on Mandatory Solid Waste Service (Staff Contact: Marilyn Nickel, 586-3347)**

XVII. ORDINANCES

- * 5. Waive Second Reading and Adopt Traffic Ordinance 43.204: Amendment to the Traffic Code, to Implement Truck Route Restrictions on Milmont Drive between California Circle**

and Dixon Landing Road and Dempsey Road between Yosemite Drive and S. Park Victoria Drive (Staff Contact: Jaime Rodriguez, 586-3335)

- * 6. Waive the Second Reading and Adopt Ordinance No. 101.19 for Amendments to the Contract Between the Board of Administration California Public Employees' Retirement System (PERS) and the City Council of the City of Milpitas (Staff Contact: Carmen Valdez, 586-3086)**
- * 7. Waive Second Reading and Adopt Ordinance No. 262.3 Regarding Definition of Lobbyist (Contacts: Vice Mayor Gomez, 586-3031 and Councilmember Livengood, 586-3027)**

XVIII. RESOLUTION

- * 8. Adopt Resolution Amending Fee Schedule for Planning and Zoning Applications (Staff Contact: Cindy Maxwell, 586-3287)**

XIX. BIDS AND CONTRACTS

- * 9. Appropriate Grant Funding and Award Construction Contract: Singley Area Street Rehabilitation, Phase IV, Project No. 8181 at Santa Rita and Annual Street Resurfacing 2006, Project No. 4229 at Holly Way & Lomer Way (Staff Contact: Andrew Brozyna, 586-3315)**
- * 10. Approve Purchase of an Automated Evidence and Property Management System (Staff Contact: Bill Marion, 586-2701)**
- * 11. Approve Contract for Uniform Rental and Laundry Services by Piggybacking on the City of San Jose Contract with AmeriPride (Staff Contact: Chris Schroeder, 586-3161)**

XX. CLAIMS AND DEMANDS

- * 12. Approve Payment of Annual Software Support and Maintenance Fees to Peele Technologies (Staff Contact: Bill Marion, 586-2701)**
- * 13. Approve Payment Requests to Four Vendors (Staff Contact: Chris Schroeder, 586-3161)**

XXI. ADJOURNMENT

**NEXT CITY COUNCIL MEETING (SPECIAL)
TUESDAY, SEPTEMBER 12, 2006 AT 6:00 P.M.**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, SEPTEMBER 19, 2006 AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City exist to conduct the people's business.

This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN

GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE,

CONTACT THE OPEN GOVERNMENT COMMISSION

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:

Community Advisory Commission

Economic Development Commission (Hotel Rep)

Planning Commission (alternate)

Mobile Home Park Rental Review Board

Sister Cities Commission

Youth Advisory Commission

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for information.

AGENDA REPORTS

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Minutes (August 15, 2006)**
- RA4. Approval of Agenda and Consent Calendar**
- RA5. Receive Progress Report on Library and East Parking Garage, Projects No. 8162, 8161 8153 and 8165 (Staff Contact: Mark Rogge, 586-3403)**

Background: The Library Subcommittee met on August 22 and heard a progress report on the Library, Parking Garage and other N. Main Street projects. The Library architect, Group 4 Architecture, is completing the contract documents for the Library. Devcon Construction has begun preliminary construction on the parking garage. Construction of North Main Street utilities is nearing completion and the streetscape design is also nearing completion. Site preparation work continues. Staff will provide a brief presentation on the progress of these projects.

Library

Pre-qualifications statements from prospective contractors were received on August 31. After review, the recommended list will be presented to the Library Subcommittee in September and to the City Council in October. After the list is approved, bid documents will be issued.

Project Stabilization Agreement

On April 18, 2006 the City Council/RDA Board authorized staff to negotiate a Project Stabilization Agreement with the local Building Trades for construction of the Library. Staff has negotiated with the Building Trades Council of Santa Clara and San Benito Counties, with assistance from Michael Vlaming, president of Scarth-Lyons & Associates, Labor Relations Consultants, and review from the City Attorney's office. The Project Stabilization Agreement (PSA) is a tool to promote positive labor relations, prevent work stoppages or strikes, and create a communications forum to proactively deal with issues that may arise. These measures are intended to stabilize the work environment facilitating the diligent prosecution of the work to completion.

While the PSA is similar to those held by the County of Santa Clara and other agencies, a special highlight of the Milpitas Library PSA is a provision to provide an educational opportunity associated with the library construction. The Building Trades would set aside time to demonstrate their particular expertise to Milpitas students and to have an apprenticeship recruitment through the Milpitas High School. Staff would coordinate this effort with the Milpitas Unified School District, the library general contractor and the Building Trades Council.

Garage

Devcon Construction Inc. began work on August 14. Test piles were installed. These piles will be tested after a 30-day development period. In the mean time, demolition, grading and on-site utilities work will continue, along with submittal review for the garage construction.

N. Main Street

The utilities work is nearing completion, along with completion of Underground Utility District No. 5. D'Arcy Harty, the City's utilities contractor has completed their work except for some clean-up items. PG&E cannot remove the overhead wires and poles until PG&E transfers power from the overhead wires to the new underground system. All other utilities have successfully

transferred their services to the new underground system on schedule. Temporary paving is in place until the streetscape construction can begin next year.

Recommendation: Receive progress report on new Library and Midtown East Parking Garage.

RA6. City of Milpitas Unaudited Financial Status Report for the Fiscal Year Ended June 30, 2006 (Staff Contact: Emma Karlen, 586-3145)

Background: Staff is in the process of preparing the Fiscal Year 05-06 year end report for our financial audit. The unaudited financial report indicates that General Fund revenues were better than original estimate by approximately \$8.8 million due to economic recovery and receipt of one-time revenues. Two of the major revenues, property tax and sales tax were above budget by about 6.5% (\$890,000) and 4% (\$630,000) respectively. Other major revenues such as building permits and charges for services (primarily Planning and Engineering fees) also experienced increases over FY 04-05 due to building activities of several residential and commercial developments and plan check activities of various capital improvement projects in the Midtown. Building Permit revenue exceeded original budget estimate by \$3.2 million or approximately 132%. However, with the slow down of the housing market, it's difficult to predict that the building activities will sustain.

Included in the General Fund revenues were several one-time revenues, some of which had been reported previously. They included repayment of a \$1.1 million of motor vehicle in-lieu tax from the State and the sale of the former City Manager's house which returned approximately \$660,000 of the City's contribution. In addition, the City also received reimbursement of SB90 mandated costs in the amount of \$400,000 during the last quarter in 05-06. These reimbursements were suspended for several years due to the State's budget problems in the past.

As we closed the year ending June 30, 2006, the report shows that City departments were on track with their operating expenditures and some departments even achieved savings despite funding at the 95% level. However, in a separate agenda report, staff requested and recommended increasing budget appropriations, primarily in the non-departmental budget. The reasons were stated in that agenda report.

In Fiscal Year 2005-06, the Council approved a transfer of \$6.1 million from the Redevelopment Agency to close the General Fund budget gap. That \$6.1 million represents the first installment payment of the purchase price for acquiring eight City properties by the Agency. With the improved economy and one-time revenues, the General Fund will not need any of the \$6.1 million to close the budget gap in FY 05-06. Staff recommends deferring the entire transfer to FY 06-07.

In September 2005, the City Council approved pre-funding the retiree medical benefits beginning in FY 2006-07. Staff recommends that the one-time revenues received in FY 05-06 be designated for retiree medical benefits in the General Fund reserves. The money set-aside will be used to set up an irrevocable trust for the sole purpose of pre-funding retiree medical benefits liability. Staff anticipates that the trust will be established by issuing a Request for Proposals in the current Fiscal Year 2006-07. The use of one-time revenue for this purpose is consistent with the Fiscal Policies that were adopted by the City Council.

Recommendation: Receive staff report, and approve the designation of one-time revenues for retiree medical benefits in the General Fund reserves.

***RA7. Approve Fiscal Year 2005-06 Year-End Budget Adjustments (Staff Contact: Emma Karlen, 586-3145)**

Background: Finance staff is in the process of closing the City and Redevelopment Agency books for Fiscal Year 2005-06. To maintain conformity with the City's budgeting policies and to

prepare for the annual external audit, year-end budget adjustments are necessary to address items that were not known at the time the FY 05-06 budget was developed.

All funds, department and project budgets have been reviewed to determine necessary adjustments. A summary of the various budget transfers and appropriations is included.

The overall fiscal impact of the budget adjustments is a net \$1,109,620 reduction to the fund balances of various funds, which includes \$817,300 reduction to the General Fund and \$292,320 to the Housing & Community Development (HCD) Fund. There are sufficient balances in these various funds to support the additional appropriations.

A detailed staff report providing additional information on the budget adjustments is included in the Council/Agency packet along with a budget change form.

There are three projects that were specified to close at June 30, 2006 in the 2006-11 Capital Improvement Program annual report, but these are now recommended to remain open as explained by the attached memo from Engineering. Construction is completed on all the projects but due to additional activities, CP 4133 Tasman Extension, CP 5074 Berryessa Creek Trail and CP 4173 Audible Pedestrian Signal Installation need to remain open until completion of the additional work.

Recommendation:

1. Approve the Fiscal Year 2005-06 year-end budget appropriations and transfers as itemized in the budget change form included in the Agency/Council agenda packet.
2. Approve three projects - CP 4133, CP 5074 and CP 4173 - to remain open.

***RA8. Accept the 2006-2007 Final Budget and the 2006-2011 Final Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**

Background: Transmitted herewith are the 2006-2007 Final Budget and the 2006-2011 Final Capital Improvement Program incorporating changes approved by the City Council/Agency during the May 9, 2006 budget hearing. The budget appropriations total \$164,137,690, which includes \$54,651,294 for Capital Projects in the first year of the five-year plan, which was adopted by the City Council on June 6, 2006.

Recommendation: Receive and file the two financial documents.

***RA9. Approve PG&E Distribution Service and Extension Agreement for the new Milpitas Library and Midtown East Parking Garage: Project No. 8153 (Staff Contact: Steve Erickson, 586-3414)**

Background: Execution of an agreement with Pacific Gas & Electric and payment of associated fee are required for PG&E to provide electrical and natural gas services to the new library and garage facilities. Now that the City's contractor has installed the necessary power and gas conduit infrastructure, PG&E is requesting the City enter into their standard Distribution Service and Extension Agreement to allow PG&E to provide electrical power and gas utilities for the new library and parking garage. PG&E crews will provide the electrical transformers for both the garage and library and will pull wire and connect to these units. The fee to PG&E for this work is not to exceed \$48,313.33 for the Non-Refundable Discount Option for Gas & Electric Service. Staff recommends the City enter into the agreement with PG&E to provide new gas and electric service for the library and parking garage. There are sufficient funds in the project budget for this purpose.

Recommendation: Approve the agreement with PG&E and authorize payment of the associated \$48,313.33 fee to PG&E from Project No. 8153.

***RA10. Award Construction Contract: Main Sewage Pump Station, Access Improvements, Phase II, Project No. 6079 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On June 20, 2006, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. An earlier phase of the project completed last year provided removal of abandoned sewage treatment facilities at the city's main sewage pump station site. This phase of the project provides a new driveway into the northerly portion of the site. It also includes a median break on North McCarthy Boulevard with a left-turn pocket to allow driveway access from both directions of travel. The new driveway will improve vehicular access, improve site circulation, and facilitate construction of the new pump station. The work includes demolition, earthwork, paving, utilities modifications, and landscape and irrigation work. The Engineer's Estimate was \$180,000.

The project was advertised and sealed bid proposals were opened on August 23, 2006. Four bid proposals were received that ranged from \$226,919.46 to \$327,868, and the lowest responsible bidder has been determined to be Duran & Venable, Inc.

The low bid is 26% higher than the Engineer's Estimate, reflecting the continued very busy construction climate in this area, as well as the continued higher costs for construction labor and materials since Hurricane Katrina. The three lowest bids are very close in price and fall within a 10% range, indicating competitive bidding and that the bids accurately reflect current costs. Award of a construction contract to the lowest bidder is therefore recommended.

Sufficient funds are available in the project budget to award this project.

Recommendation: Award construction contract for Project No. 6079, Phase II, to Duran & Venables Inc., in the amount of \$226,919.46.

***RA11. Approve Contract Change Order: North Main Street Utilities Project—Weller Lane To Carlo Street, Underground Utility District No. 5, Project No. 8153 (Staff Contact: Steve Erickson, 586-3414)**

Background: On February 7th, 2006 the City Council/RDA Board awarded the construction contract for this project to D'arcy Harty Construction, Inc. This \$3,267,704 project provides for the installation of new and up-sized underground sewer, storm, water, power, gas, phone, and cable utilities to serve the new Milpitas library, east parking garage, and other Midtown development projects such as the DeVries Place senior housing, County health center, and certain improvements for the Apton Plaza, private development, just north of the library site. Most of the underground construction has been completed.

PG&E and SBC have required that additional conduits be installed to provide needed substructure prior to energizing the new underground system and taking down the overhead utility lines. The utility companies have also requested that the City's contractor provide additional excavation in areas where the new underground distribution substructure ties into the underground service for several existing facilities to permit room to work. The contractor has also requested compensation for the City's additional use of three changeable message boards for traffic safety, trench plates, and other equipment that has been used as required to coordinate the work with PG&E beyond the contractor's original workscope. Additional storm drain system improvements are also needed to prepare North Main Street, and the library and garage site for upcoming winter weather, and to provide permanent storm water pollution prevention measures. The contractor will install perforated storm lines buried in permeable material that will allow on-site filtration of storm runoff through a bio-swale. The improvements are necessary at this time to take advantage of an existing excavation, and to prepare the area to receive material that will be removed from the garage site.

This change order is estimated not to exceed \$85,000 and there are sufficient funds in the N. Main Street Utilities project budget for this work.

Recommendation: Approve a contract change order in the amount of \$85,000 to D'arcy Harty Construction, Inc. for additional work for N. Main Street Utilities, Project No. 8153.

***RA12. Approve Authorization to Enter into Negotiations with The Matteson Companies for Affordable Housing Units (Staff Contact: Felix Reliford, 586-3071)**

Background: The Matteson Companies, of Redwood City, California is proposing to develop a 126 unit for-sale condominium project on a 2.72-acre site, located on South Main Street and South Abel Street. The developer proposed a 20% affordable housing development, with targeted income for households of low and moderate-income persons. The project will also include a mixed-use component with 3,000 square feet of commercial development on the first floor.

The final details of the agreement (Owner Participation Agreement) will be presented to the City Council/Agency for approval at a later date. It is recommended that the Agency authorize staff to enter into negotiations with The Matteson Companies for the purpose of providing financial assistance from the Agency's 20% Affordable Housing Set-Aside funds. The Agency's authorization to enter into negotiations should not be considered implied approval for any of the forms of assistance requested by the developer. Any agreement negotiated is subject to the Agency/Council review and approval.

Included in the Agency's agenda package is the letter from the developer, The Matteson Companies, with their request to the Redevelopment Agency of intent to negotiate for financial assistance for the affordable housing units.

Recommendation: Approve authorization to enter into negotiations with The Matteson Companies to provide Agency financial assistance from its 20% Affordable Housing Set-Aside Fund.

***RA13. Adopt Resolution Approving the Execution of an Owner Participation Agreement with Western Pacific Housing, LLC (Staff Contact: Felix Reliford, 586-3071)**

Background: On April 19, 2005, Redevelopment Agency authorized staff to enter into negotiations with Western Pacific Housing, LLC, for the development of a 153-unit residential for-sale townhome project. The project is located on South Main Street near Montague Expressway (just north of the Shell Gas Station, adjacent to the Jack-In-The Box restaurant). The Redevelopment Agency assistance was authorized specifically for the development of 31 deed-restricted affordable housing units (9 very low and 22 moderate). Since then the project has been revised to reflect 147-units, with 29 affordable units (9 very low and 20 moderate). The 20% affordability requirement will still be provided in the revised project.

The OPA sets out in detail the responsibilities of the Agency and the developer, specifically with regards to the timing, benefits, dispute resolution and anti-discrimination requirements. The final OPA is now ready for Agency approval.

In summary, the OPA commits \$1.2 million dollars of the Agency's affordable housing funds to assist eligible households to purchase the nine units reserved for very low-income households. Funds are pledged in the form of \$133,000 for silent second low interest rate loans for the 9 very low-income households. It is estimated that the proposed project, upon full build-out, will return \$105,000-\$123,000 for the 20% housing set-aside fund in tax increment revenue annually. As a result, the internal payment capacity from the tax increment generated for the project is sufficient to assist with the Low and Moderate Housing Funds at the level recommended and requested by the project applicant.

At its meeting on October 12, 2005, the Planning Commission reviewed and approved the proposed tentative map. The Site Plan was reviewed and approved by the Planning Commission at its meeting on December 14, 2005. A copy of the OPA and the resolution for adoption are

included in the Council's agenda packet. The participant has signed the OPA indicating acceptance.

Recommendation: Adopt Resolution of the Redevelopment Agency Approving the execution of an Owner Participation Agreement with Western Pacific Housing, LLC with certain findings.

RA14. Agency Adjournment

XV. REPORTS OF OFFICER AND COMMITTEE

City Council

- * **1. Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be re-appointed to Commissions as noted below:

Sister Cities Commission:

Appoint Beverly McCarter (current Alternate No. 1) as a voting member to a term expiring September 2009.

Appoint Oliver Wan (Alternate No. 2) as Alternate No. 1 to a term expiring September 2008.

Bicycle Transportation Advisory Commission (BTAC):

Re-appoint Cheryl Bunnell as Alternate No. 1 to a term expiring August 2008.

Re-appoint Rene Briones to a full term expiring August 2009.

Recommendation: Move to approve the Mayor's recommended Commission re-appointments.

Public Art Committee

- * **2. Approve the Public Art Committee Manual (Staff Contact: Kathleen Yurchak, 586-3209)**

Background: At the July 24, 2006, Public Art Committee meeting, the Committee approved the final draft of the Public Art Committee Manual drafted by the Master Plan Subcommittee of the Public Art Committee. The Manual, to be used as a tool by the current and future Public Art Committee members is an overview of the responsibilities, guidelines, and processes associated with the City of Milpitas Public Art Committee and the acquisition and installation of public art. The Public Art Committee Manual and the Unapproved Minutes from the July 24, 2006, Public Art Committee meeting are included in the Council's agenda packet for review.

Recommendation: Approve the Public Art Committee Manual.

XVI. NEW BUSINESS

- 3. Receive a Report From Valley Transportation Authority (VTA) On Value Engineering Proposals Being Pursued For Bay Area Rapid Transit (BART) To Silicon Valley Project in a New Supplemental Environmental Impact Report and Authorize City Manager to Issue a Comment Letter (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The BART to Silicon Valley project Final Environmental Impact Report (FEIR) was approved by the Valley Transportation Authority (VTA) Board of Directors in December 2004. The design of the project is in progress and is currently at 35%. A second Value Engineering exercise has just been completed by VTA to identify cost-savings options and make the project more competitive for grant funding. Value Engineering recommendations that may be pursued by the VTA in the final design of the project must be cleared through a Supplemental Environmental Impact Report (SEIR), which includes an extensive community outreach process.

The public comment portion of the scoping phase of the SEIR closes on September 7, 2006. Several public meetings were held by VTA to solicit input. A community meeting was held in Milpitas on Tuesday, August 8, 2006. SEIR options being considered in Milpitas include the following:

BART Crossing at Dixon Landing Road

The FEIR cleared BART in a retained-cut at Dixon Landing Road. The SEIR proposal places BART at-grade along with the existing Union Pacific Railroad tracks and involves depressing Dixon Landing Road underneath the two rail crossings. This option was presented to Council by VTA over one year ago. Council directed VTA and City staff to develop construction phases so Dixon Landing and Milmont Drive are maintained open and minimal impacts are caused to existing businesses during construction. VTA and City staff continue to work on resolving this issue.

BART Crossing at Montague Expressway

The FEIR cleared BART in a retained-cut at Montague Expressway. The SEIR proposal includes evaluating several different options for crossing at Montague Expressway with BART in either a short or long-retained cut or on an aerial structure in a short or long aerial structure. In either option, the length of crossing is determined by the existing railroad wye at Piper Drive (whether it is eliminated or relocated north). If the railroad wye is removed, service to existing customers is also removed. Due to potential noise and aesthetic impact to proposed high diversity residential (per the TAP) staff recommends BART in a retained cut at Montague Expressway.

BART Montague/Capitol Station – Parking Options

The current site plan for the Milpitas BART station at Montague Expressway/Capitol Avenue includes a 2,030 8-story parking structure located adjacent to the BART station. Because of an increase in anticipated ridership and parking requirements that resulted as a mandatory change in land use assumptions by the Federal Transit Administration, the VTA is seeking cost-savings measures to implement parking at all stations. The SEIR proposal includes providing a combination of garage & surfacing parking and surfacing parking only. The City and the VTA are working together to identify site plans that meet the needs of the BART project and the Transit Area Plan study currently under development.

Recommendation:

1. Receive ORAL Report from VTA staff on Value Engineering Proposals being pursued for the BART to Silicon Valley Project in a New Supplemental Environmental Impact Report.
 2. Authorize the City Manager to issue comment letter to the VTA, based on Council discussions.
4. **Deny Request for Waiver on Mandatory Solid Waste Service (Staff Contact: Marilyn Nickel, 586-3347)**

Background: Section V-200-3.20 of the Milpitas Municipal Code (MMC) provides that property owners are obligated to subscribe to and pay for solid waste service upon occupation of a premise on either a permanent or temporary basis. In some instances, although a residence is occupied (based upon their geographical location) some residents have developed alternate methods of disposing their trash and thereby negating the need for solid waste collection at their home. The following residents are requesting a waiver for solid waste service: Mr. Edward Kandefer, Mr. & Ms. Richard & Persides Tatom, Mr. Johnny Ho, Mr. Chien-Min Wan; Mr. Shi-Ping Fan; Mr. Yonglin Huang, Mr. James Wu, and Mr. Ola Hassan. Staff has worked with the City Attorney's office to review this waiver request. Based on the findings and issues noted below, staff recommends denial of the waiver request:

- 1) MMC prohibits residents from transporting wastes due to public health and safety concerns which include:

- a. Exposing putrecibles (which may contain bacteria, molds or fungi), medical wastes and/or fecal matter to the community.
 - b. Potential nuisance problems of litter and/or attracting vectors due to inadequate storage prior to and during transportation.
 - c. Accumulation of solid waste beyond the seven-day maximum storage as mandated by ordinance (V-200-3.40);
- 2) Setting precedence which may allow other residents to haul household garbage;
 - 3) Self-haul of residential waste is a violation of the franchise agreement;
 - 4) Difficulty in tracking the eligible parties;
 - 5) Potential for increased illegal dumping as other customers will cease their service without adequate alternatives.

One residential letter describing the waiver request is included in the Council packet. Any additional letters may be presented at the Council meeting.

Recommendation: Deny the request for a waiver from mandated solid waste service.

XVII. ORDINANCES

- * 5. **Waive Second Reading and Adopt Traffic Ordinance 43.204: Amendment to the Traffic Code, to Implement Truck Route Restrictions on Milmont Drive between California Circle and Dixon Landing Road and Dempsey Road between Yosemite Drive and S. Park Victoria Drive (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: Traffic Ordinance 43.204 was introduced on August 15, 2006 by motion of Councilmember Giordano. The purpose of the ordinance is to implement new truck route restrictions for vehicles over a 4-ton vehicle maximum gross weight limit on the following street segments:

| <u>Street</u> | <u>Segment of New Truck Route Restriction</u> |
|---------------|---|
| Dempsey Road | Yosemite Drive to S Park Victoria Drive |
| Milmont Drive | California Circle to Dixon Landing Road |

Trucks providing delivery service to existing businesses on either street are exempt from the restriction so there is no economic impact.

Recommendation: Waive Second Reading and Adopt Traffic Ordinance No. 43.204: an Amendment to the Traffic Code, to implement Truck Route Restrictions on Milmont Drive between California Circle and Dixon Landing Road and Dempsey Road between Yosemite Drive and S. Park Victoria Drive.

- * 6. **Waive the Second Reading and Adopt Ordinance No. 101.19 for Amendments to the Contract Between the Board of Administration California Public Employees' Retirement System (PERS) and the City Council of the City of Milpitas (Staff Contact: Carmen Valdez, 586-3086)**

Background: On August 15, 2006, Ordinance No. 101.19 was introduced to amend the contract with the Public Employees Retirement System (PERS) to provide Section 21548 and Section 21574 benefits for local police only. Costs were disclosed as is required under Government Code Section 7507. Staff is now recommending to waive the second reading and adopt Ordinance No. 101.19.

Recommendation:

1. Waive the second reading of Ordinance No. 101.19.
2. Adopt Ordinance No. 101.19.

- * 7. **Waive Second Reading and Adopt Ordinance No. 262.3 Regarding Definition of Lobbyist (Contacts: Vice Mayor Gomez, 586-3031 and Councilmember Livengood, 586-3027)**

Background: The Council's Open Government Subcommittee discussed the lobbyist registration section of the open government ordinance (Milpitas Municipal Code I-310- 3.10). At the June 7th meeting, Councilmembers asked the City Attorney for proposed language to clarify the definition of the term "lobbyist" in order to exclude employees of local governments. On July 12th, the City Attorney presented that language to the subcommittee, and on August 15th, the City Council introduced the ordinance amendment.

The draft ordinance prepared by the City Attorney with the additional definition of lobbyist, is included in the Council agenda packet.

Recommendation:

1. Waive Second Reading of Ordinance No. 262.3
2. Adopt Ordinance No. 262.3 amending the definition of lobbyist.

XVIII. RESOLUTION

- * 8. **Adopt Resolution Amending Fee Schedule for Planning and Zoning Applications (Staff Contact: Cindy Maxwell, 586-3287)**

Background: The Milpitas Municipal Code (IV-3-4.00) requires the city to recover 100% of its costs to process applications for planning entitlements.

Most applicants are required to open Private Job (PJ) accounts when they submit a Planning and Zoning Application. The funds in the PJ account are used to cover staff time and resources to process the application. The PJ accounts currently have a maximum limit that the City may charge an applicant, regardless of how much the project may actually cost the City to process. Most projects are limited to a maximum of \$8,000 though the actual costs to the City may be significantly more than that, especially if the project is large, complex or controversial.

The proposed amendment to the fee resolution and schedule provides for full reimbursement to the City by removing the limit on PJ accounts. No fees are proposed to be increased.

The fee resolution is also updated to:

- Replace the term Agency Fund Account (AFA) with Private Job (PJ) account;
- Clarify the description of Private Job accounts;
- Delete the unused categories and fees for "Development Plan" and "Master Plan" applications;
- Include a \$40.00 fee for issuing Zoning Verification letters; and,
- Delete a research fee of \$40.00 an hour per the Open Government Ordinance.

The Finance Subcommittee reviewed the proposed changes on August 2, 2006, and recommended approval.

Recommendation: Adopt Resolution amending the fee schedule for Planning and Zoning Applications.

XIX. BIDS AND CONTRACTS

- * 9. **Appropriate Grant Funding and Award Construction Contract: Singley Area Street Rehabilitation, Phase IV, Project No. 8181 at Santa Rita, and Annual Street Resurfacing 2006, Project No. 4229 at Holly Way & Lomer Way (Staff Contact: Andrew Brozyna, 586-3315)**

Background: On June 20, 2006, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. This project provides drainage improvements at Santa Rita Drive/Via Baja, in the Singley Drive neighborhood including reconstruction of sections of pavement, sidewalks, curb and gutter along Santa Rita Drive from Via Baja northwards to the cul de sac. This project also includes necessary resurfacing of Holly and Lomer Ways. Approximately three inches of the existing street pavement at Holly and Lomer Ways will be removed and replaced with new asphalt concrete.

The project was advertised and sealed bid proposals were opened on August 24, 2006. Bids ranged from \$172,745.09 to \$307,917.50. The Engineer's estimate was \$222,420. The lowest responsive bid was submitted by Alaniz Construction, Inc. The State has granted the City \$164,000 from the State's Traffic Congestion Fund, and the remaining \$8,745.09 is available in Project No. 4229, to award this contract.

Recommendation:

1. Appropriate \$164,000 from the Traffic Congestion Relief Fund to Project No. 4229.
2. Award the construction contract for the Singley Area Street Rehabilitation, Phase IV, Project No. 8181 (Santa Rita); Annual Street Resurfacing 2006, Project No. 4229 (Holly Way & Lomer Way), to Alaniz Construction, Inc., in the amount of \$172,745.09.

*** 10. Approve Purchase of an Automated Evidence and Property Management System (Staff Contact: Bill Marion, 586-2701)**

Background: In 2005, the Santa Clara County Civil Grand Jury issued a report recommending that all law enforcement agencies in the County implement automated systems to track evidence and property. Police and Information Services staff researched available systems and evaluated them based on operating efficiency, compliance with established evidence handling procedures, reduction of time spent by officers to book evidence and vendor experience. Systems from nine vendors were reviewed and it was determined that four systems did not meet our minimum requirements. The remaining five vendors were asked to provide a demonstration of their software as well as local law enforcement references for site visits. After completing this process, The Barcoded Evidence Analysis, Statistics, and Tracking (BEAST) system from Porter Lee Corporation was found to best meet the needs of the Police Department. With the installation of this application, there will be greater accountability of evidence and property, staff time savings as well as compliance with the Grand Jury recommendation.

The total cost of the required hardware and software is \$24,885.52. Funding for this purchase is available in CIP No. 3389 Enhanced Public Safety in the amount of \$14,900 and CIP No. 8109 Departmental Hardware in the amount of \$9,985.52. As Porter Lee Corporation is the only source for this software, staff is requesting that the purchase be a sole source procurement as sanctioned in section I-2-5.03-4 of the Milpitas Municipal Code.

Recommendation: Approve the purchase of an automated evidence and property management system from Porter Lee Corporation in the amount of \$24,885.52.

*** 11. Approve Contract for Uniform Rental and Laundry Services by Piggybacking on the City of San Jose Contract with AmeriPride (Staff Contact: Chris Schroeder, 586-3161)**

Background: Past practice has been for individual departments and/or divisions to enter into separate agreements with service providers for uniform rental and laundry services. Upon review of these contracts, Purchasing staff found that the terms and conditions typically favor the current service provider, Aramark and the contract terms range from 12 to 60 months. Multiple contracts are difficult to manage and much less cost effective than one consolidated contract.

On March 9, 2006 the City of San Jose (CSJ), issued a Request for Qualifications for uniform rental and laundry services. The RFQ was widely advertised and competition among all of the major firms in the Bay Area was strong. The outcome was a five-year contract with AmeriPride

with terms and conditions advantageous to the CSJ. Additionally, the contract was specifically set up to enable other municipalities to piggyback purchase.

Cost Analysis: A comprehensive cost analysis was conducted comparing actual items and quantities ordered from the 2005 Aramark contract to matching items on the AmeriPride contract. The shirts and pants listed below are representative examples of the savings possible by piggybacking the AmeriPride contract.

| | <u>Aramark</u> | | <u>AmeriPride</u> |
|----------------|-------------------------------|-----|-------------------------------|
| 20,072 SHIRTS: | \$0.45 per shirt = \$9,032.40 | vs. | \$0.23 per shirt = \$4,616.56 |
| 13,728 PANTS: | \$0.52 per pant = \$7,138.56 | vs. | \$0.33 per pant = \$4,530.24 |

The overall annual cost savings for uniform rental and laundry services are estimated to be \$7,024, approximately 44%.

In addition, the cost for the rental and maintenance of floor mats Citywide was also analyzed. Five of the most popular floor mats were selected for price comparisons; the results were similar with overall approximate saving of 29%.

A comparison of the rental and laundry cost of towels (i.e. shop 18" x 18" Red, Turkish and dish) indicated a cost savings of approximately 15-20%. Coveralls, aprons, mops, mop handles and fender seat covers all have substantially lower prices as listed on the AmeriPride contract with CSJ.

The City's annual cost for rental and laundry services with Aramark is approximately \$62,000. The cost to the City by "piggybacking" on the CSJ contract with AmeriPride is estimated to be \$36,000, resulting in a savings of approximately \$26,000 per year.

The practice of, and requirements for, utilizing a contract bid by another agency, are defined and sanctioned under Municipal Code Section I-2-3.07 "Piggyback Procurement." Staff's recommendation to piggyback on the CSJ contract with AmeriPride is in full compliance with those requirements.

Recommendation: Authorize the City Manager to enter into a separate contract with the vendor AmeriPride selected by the originating agency - City of San Jose, and incorporate by reference the original solicitation, terms, conditions, and pricing, for a not to exceed amount of \$36,000 per year for two years, with an option for three additional one-year periods, subject to approval as to form by the City Attorney.

XX. CLAIMS AND DEMANDS

*** 12. Approve Payment of Annual Software Support and Maintenance Fees to Peele Technologies (Staff Contact: Bill Marion, 586-2701)**

Background: The City currently uses document management software from Documentum Corporation in addition to several scanning devices to support electronic document imaging. These images are used for both internal and external electronic document retrieval. Since 2001 the City has renewed annual support in order to receive software updates and maintenance of the scanning equipment. Payment of the annual fee in the amount of \$18,675 will continue support through June of 2007. Funding is available in the Information Services Operating Budget for renewal of the annual support and maintenance.

Recommendation: Authorize payment of annual support and maintenance in the amount of \$18,675 to Peele Technologies.

*** 13. Approve Payment Requests to Four Vendors (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with Ordinance No. 23.10 of the Municipal Code, Purchasing has prepared the following list of purchasing requests over \$20,000.00 for approval.

1. \$21,902.00 to Acco Engineered Systems to remove and replace a second failed compressor in the Energy Labs HVAC system at City Hall. Work was performed as an emergency under section I-2-3.10 of the Municipal Code “Emergency Authority of Purchasing Agent.” (Funds are available from the Public Works operating budget for this repair).
2. \$21,541.75 to Tri-American for the purchase of a Bax 250 Pavement Marker Applicator. Tri-American is the sole authorized distributor of Bax brand Pavement Marker Applicators in California. Staff requests the equipment be purchased as a sole source procurement, as sanctioned in section I-2-3.09 of the Milpitas Municipal Code. (Funds are available from the Equipment Replacement Fund for this purchase.)
3. \$25,556.25 to Great West Equipment, Inc. for the purchase of a Layton Paver model H 500C with electric hydraulics and heat and hitch arms. Great West Equipment, Inc. is the sole authorized distributor of Layton Pavers in California. Staff requests that the equipment be purchased as a sole source procurement as sanctioned in section I-2-3.09 of the Milpitas Municipal Code. (Funds are available from the Equipment Replacement Fund for this purchase.)
4. \$113,990.00 to Action Target, Inc. for the purchase and installation of a lead containment system at the existing police firearms range. After careful consideration of other solution providers and the fact that Action Target manufactured and installed our current target, control, and ballistic protection system, it was determined that Action Target is the only vendor capable of fully meeting all design and installation criteria of the new equipment. Therefore, staff requests that the equipment be purchased as a sole source procurement as sanctioned in section I-2-3.09 of the Milpitas Municipal Code. (Funds are available from Capital Improvement Project No. 8174 “Range Lead Containment System” for this purchase.)

Recommendation: Approve the four payment requests.

XXI. ADJOURNMENT

**NEXT CITY COUNCIL MEETING (SPECIAL)
TUESDAY, SEPTEMBER 12, 2006, 6:00 P.M.**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, SEPTEMBER 19, 2006, 7:00 P.M.**